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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,521	12/14/2001	Hiroshi Yabe	XA-9598	3563

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MILES & STOCKBRIDGE PC  
1751 PINNACLE DRIVE  
SUITE 500  
MCLEAN, VA 22102-3833

EXAMINER

RODRIGUEZ, PAMELA

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

38

	Application No. 10/014,521	Applicant(s) YABE ET AL.	
	Examiner Pam Rodriguez	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The Amendment filed January 7, 2005 has been received and considered.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,269,198 to Fukushima.

Regarding Claim 5, Fukushima discloses a damper assembly (3/23) with a torque limiter 51 having all the features of the instant invention including: the damper assembly having a single torque transmission path between an input axis and an output axis (see column 2 lines 50-63), a friction torque limiter 51 between the input axis or the output axis (see Figure 2) and an airtight damper 3/23, wherein the friction torque limiter is in series with the damper 3/23 (see Figure 2) and limiting the torque which can be transmitted through the damper (see column 4 lines 10-47), and wherein the friction torque limiter 51 is provided inside the damper 3/23 (see Figure 2) and includes a ring member 1 having a conical peripheral friction surface 53 through which torque is transmitted in the friction path (see column 3 lines 65-68).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,680,918 to Reik et al.

Regarding Claim 2, Reik et al disclose a damper assembly (see Figure 1) with a torque limiter (friction clutch 4), said damper assembly having a single torque transmission path between an input axis (left side of Figure 1) and an output axis (right side of Figure 1) having all the features of the instant invention including: a friction torque limiter (3,52,3a,5a) between the input axis or the output axis (see column 7 lines 47 et al and column 8 lines 1-23) and an airtight damper 9 (see column 9 lines 5-15, i.e., inherently air tight in order to hold the lubricant in the damper chamber), wherein the

friction torque limiter is in series with the damper and limiting the torque which can be transmitted through the damper (see Figure 1), and wherein the friction torque limiter is attached outside the airtight damper (see Figure 1 which shows that the torque limiter is outside of damper 9) and includes a torque transmission plate 5a fixed to a drive member of the damper 9, and a friction plate 5A held in frictional engagement with the torque transmission plate 5a by a press plate 52 engaged with an inner peripheral portion of a torque transmitting member 4 via bolt 61 and pressed toward the torque transmission plate 5a by a press spring 54 (see Figure 1).

However, Reik et al do not disclose that the press plate is spline-engaged with an inner peripheral portion of the torque transmitting member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the press plate of Reik et al to be spline-engaged with the inner peripheral portion of the torque transmitting member as an alternate means of securing the attachment between the two mating parts. As long as some sort of connection is maintained between the press plate and the torque transmitting member, the means used to secure the two together is arbitrary.

### ***Response to Arguments***

7. Applicant's arguments filed January 7, 2005 have been fully considered but they are not persuasive.

Regarding applicant's arguments directed towards Claim 1 and the Reik et al reference, the examiner maintains that Reik does disclose the newly claimed friction

plate, torque transmission plate, pressure plate, torque transmitting member, and press spring as outlined in the rejection above, with constructing the press plate to be spline-engaged with the torque transmitting member merely being a matter of design preference. Therefore, when taken in the context of the new 103 rejection presented above, the Reik et al reference still reads on Claim 1.

Regarding applicant's arguments directed towards Claim 5, the examiner maintains that the Fukushima reference still meets the limitations of this claim as outlined in the 102 rejection above. In particular, the surfaces 53 of the reference do transmit a torque to the assembly through at least balls 52 as more particularly described in column 3 line 65 – column 4 line 30. And surfaces 53 are certainly located on a side of a ring member 1, this side being readable as a peripheral or outer surface of ring 1.

It is for these reasons that the rejections have been maintained.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-3657. The examiner can normally be reached on Mondays 5 am -3:30 pm and Tuesdays 5 am -11 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pam Rodriguez  
Primary Examiner  
Art Unit 3683  
2/15/05

Pr  
02/15/05